

BOARD of SUPERVISORS



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MEMORANDUM

TO: Ben Rosenfield, City Controller
Jose Cisneros, Treasurer-Tax Collector
Brian Goebel, Executive Officer, Local Agency Formation Commission
Shakirah Simley, Director, Office of Racial Equity

FROM: John Carroll, Assistant Clerk, Government Audit and Oversight Committee,
Board of Supervisors

DATE: February 3, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Preston on January 26, 2021:

File No. 210078

Ordinance amending the Administrative Code to establish the San Francisco Reinvestment Working Group to submit business and governance plans for a non-depository Municipal Finance Corporation and for a Public Bank to the Board of Supervisors and to the Local Agency Formation Commission.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Office of Chair Preston
Todd Rydstrom, Office of the Controller
Peg Stevenson, Office of the Controller
Mark dela Rosa, Office of the Controller
Amanda Kahn Fried, Office of the Treasurer-Tax Collector
Alisa Somera, Local Agency Formation Commission

1 [Administrative Code - San Francisco Reinvestment Working Group]

2
3 **Ordinance amending the Administrative Code to establish the San Francisco**
4 **Reinvestment Working Group to submit business and governance plans for a non-**
5 **depository Municipal Finance Corporation and for a Public Bank to the Board of**
6 **Supervisors and to the Local Agency Formation Commission.**

7
8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Chapter 5 of the Administrative Code is hereby amended by adding Article
17 XVI, consisting of Sections 5.16-1 through 5.16-7, to read as follows:

18 **SEC. 5.16-1. CREATION OF SAN FRANCISCO REINVESTMENT WORKING**
19 **GROUP.**

20 *The Board of Supervisors hereby establishes the San Francisco Reinvestment Working Group*
21 *(“Working Group”).*

22 **SEC. 5.16-2. FINDINGS AND PURPOSE.**

23 *(a) California Assembly Bill 857, the Public Banking Act, effective January 1, 2020, authorizes*
24 *local agencies to create public banks for the purposes of achieving cost savings, strengthening local*
25 *economies, supporting community economic development, and addressing infrastructure and housing*
needs for localities.

1 (b) A San Francisco Public Bank would create a fiscally safe and sound institution to invest
2 public funds in a manner that aligns with the values and interests of the City, including investments in
3 City residents, businesses, and sectors that serve the public good and that are underserved or unserved
4 by the existing financial industry.

5 (c) The City and County of San Francisco has a population of over 800,000 residents who,
6 through decades of public elections, have repeatedly prioritized local control, transparency, and
7 economic opportunity as valued pillars of public interest. These interests would be served by
8 sustainable and responsible community investments that promote economic security, housing
9 affordability, environmental sustainability, and general wellbeing for all San Franciscans, guided by
10 the creation of lending priorities focused on those objectives.

11 (d) The complexity of establishing a public bank requires focused, sustained planning and
12 interim steps to ensure ongoing viability.

13 (e) This complex task is a valuable one, as City government banking services are provided by
14 large national banks that invest in sectors that may harm San Francisco residents or contradict the
15 City's values. These banks continue to resist pressure from national movements to have their
16 investments reflect values of transparency, environmental responsibility, and social justice, and they
17 have been criticized for racially-biased predatory lending and foreclosures and for investments in fossil
18 fuels, weapons, and private prisons.

19 (f) Traditional financial institutions' executive compensation and employee incentive programs
20 often are dissociated from the external or public effects of their investment policies, in some cases
21 causing significant financial harm to customers and shareholders.

22 (g) While a Public Bank will require planning and investment of public funds, it can create
23 significant long-term benefits for the City, which include allowing local tax dollars to be invested in
24 local priorities while still ensuring the safety and preservation of capital, liquidity to meet City cash
25 flow needs, and return on investments.

1 (h) A Public Bank can and should balance both fiscal solvency and investments in residents,
2 businesses, and sectors that reflect San Francisco values, advancing issues of social, economic, gender,
3 racial, and environmental equity, among others.

4 (i) The long-term financial and social well-being of the City requires sustainable and equitable
5 economic growth locally, nationally, and internationally, which in turn requires equitable and
6 transparent financial investment and opportunity.

7 (j) Increasing interest among municipalities and regions across California and the United
8 States in public bank formation provided the impetus for the enactment of the Public Banking Act,
9 Assembly Bill 857.

10 (k) The Budget and Legislative Analyst of the Board of Supervisors has produced reports
11 regarding banking, community supportive banking options, and public banking, including on the
12 following subjects: “Community Supportive Banking Options,” September 8, 2011 (Updated);
13 “Community Supportive Banking Options 2017 Update,” November 27, 2017; “Large Bank Social
14 Responsibility Screening,” May 19, 2017; and “Municipal Bank for San Francisco: Issues and Options
15 for Consideration,” July 24, 2020. These reports are on file with the Clerk of the Board of Supervisors
16 in File No. 210078.

17 (l) In 2017, in response to Resolution No. 152-17 urging the formation of a Municipal Bank
18 Feasibility Task Force to research the viability and advisability of a Public Bank, Treasurer Jose
19 Cisneros formed such a group. After 18 months of work, it produced a report entitled, “Municipal
20 Bank Feasibility Task Force Report,” dated March 2019, which analyzed three models: (1) a lending
21 entity focused on investments in affordable housing and small business lending to achieve community
22 goals; (2) a bank that performs the City’s cash management and other banking needs, allowing the City
23 to divest from large commercial banks; and (3) a bank that combines these functions. A copy of said
24 report is on file with the Clerk of the Board of Supervisors in File No. 210078.

1 **SEC. 5.16-3. DEFINITIONS.**

2 *For the purposes of this Article XVI, the following terms shall have the following meanings:*

3 “Local Enterprise” means small businesses, nonprofits, cooperatives, and community land
4 trusts that operate primarily in San Francisco.

5 “Municipal Finance Corporation” (“MFC”) means a non-depository lending corporation that
6 is wholly-owned by the City.

7 “Public Bank” means a City “public bank” as defined by California Government Code Section
8 57600(b)(1), as may be amended from time to time.

9 **SEC. 5.16-4. POWERS AND DUTIES OF THE WORKING GROUP.**

10 (a) Not later than one year from the date of the first Working Group meeting, the Working
11 Group shall submit to the Board of Supervisors and to the Local Agency Formation Commission a
12 business and governance plan for establishing and operating an MFC, which shall address the MFC’s
13 planned lending services, prioritizing investment in affordable housing production and preservation,
14 Local Enterprise, and public infrastructure; organization and management; financial projections; and
15 funding requirements; and which may include recommendations for modifications of City laws and
16 regulations.

17 (b) Not later than one year from the date of the first Working Group meeting, the Working
18 Group shall submit to the Board of Supervisors and to the Local Agency Formation Commission a
19 business and governance plan for the MFC to become a Public Bank, which plan shall:

20 (1) meet the elements required in a business plan to be submitted as part of a public
21 bank license application to the California Department of Financial Protection and Innovation;

22 (2) include a study that meets the requirements of California Government Code Section
23 57606(a) for state-chartered public banks and, at the discretion of the Working Group, may address the
24 elements set forth in California Government Code Section 57606(b);

1 (3) incorporate the following time objectives: the MFC applying for a public bank
2 license within three years of its establishment, and becoming operational as a Public Bank within five
3 years of its establishment; and the Public Bank providing comprehensive banking services to the City
4 within five years of its becoming operational;

5 (4) establish lending priorities that promote economic security, affordability,
6 environmental sustainability, and general wellbeing for all San Franciscans, which shall:

7 (A) prioritize investment in affordable housing production and preservation with
8 a focus on: housing to meet the needs of low-income households (as set forth in Planning Code Section
9 415) and Social Housing Developments (as defined in Administrative Code Section 10.100-78(e)) for
10 households earning up to 80% of Area Median Income; Local Enterprise; and public infrastructure;

11 (B) evaluate implementing additional lending programs investing in public
12 lands, zero-emission renewable energy systems, energy efficiency upgrades, student loans, and
13 sustainable food systems, and foreclosure prevention/homeowner assistance; and

14 (C) prohibit lending for market-rate housing and for lending that conflicts with
15 the City's values, which shall include, but not be limited to, predatory lending; lending for fossil fuels,
16 tobacco, firearms, and weapons; and lending to businesses with a record of labor law violations,
17 prisons, and detention centers;

18 (5) recommend a governance and regulatory structure of a Public Bank that
19 encompasses compliance with legal requirements, ethical standards, lending priorities, and standards
20 for transparency, community oversight, and accountability;

21 (6) make recommendations for modifications of City laws and regulations, which may
22 include draft legislation or regulations;

23 (7) make recommendations whether to establish and operate the Public Bank in
24 partnership with other California cities, counties, or other local agencies, or to include other
25

1 California cities, counties, or other local agencies in the capitalization or as customers of the Public
2 Bank;

3 _____ (8) make recommendations for capitalization and loan funding of at least \$300 million,
4 from sources including but not limited to appropriations from the Treasurer's Investment Pool, the
5 General Fund, and budget surpluses; and

6 _____ (9) address any other matter the Working Group deems appropriate in light of its
7 purposes.

8 (c) The Working Group may in its discretion incorporate the analysis of the Municipal Bank
9 Feasibility Task Force Report into the plans required under subsections (a) and (b).

10 **SEC. 5.16-5. MEMBERSHIP.**

11 (a) The Working Group shall consist of nine members as follows:

12 _____ (1) Seats 1-3 shall be held by technical experts in financial institutions, each of whom
13 shall have expertise in at least one of the following: Community Development Financial Institutions;
14 credit unions, as defined in Section 165 of the California Financial Code; small banks or intermediate
15 small banks, as defined in Section 25.12(u) of Title 12 of the Code of Federal Regulations; bank or
16 lending entity formation or business planning; or financial institution regulatory compliance.

17 _____ (2) Seats 4-7 shall be held by community representatives, each of whom shall have a
18 commitment to economic, gender, and racial justice; a commitment to serving low-income
19 communities, communities of color, immigrant communities, and organized labor; and experience in at
20 least one of the following: affordable housing financing or policy; Local Enterprise lending; consumer
21 or student lending; or environmental justice, with experience in areas such as zero-emission renewable
22 energy sources, energy efficient building design, or sustainable food systems.

23 _____ (3) Seat 8 shall be held by the Controller or the Controller's designee.

24 _____ (4) Seat 9 shall be held by the Treasurer or the Treasurer's designee.

25 (b) The Board of Supervisors shall appoint Seats 1-7.

1 **SEC. 5.16-6. ORGANIZATION AND OPERATIONS.**

2 (a) Each appointing authority shall name its appointees within 30 days of, and the Working
3 Group shall convene within 60 days of, the effective date of this Article XVI. The Working Group shall
4 meet at least once per month.

5 (b) Subject to the fiscal and budgetary provisions of the Charter, subject to the approval of the
6 Local Agency Formation Commission, and consistent with the Local Agency Formation Commission's
7 special studies authority under state law, the Local Agency Formation Commission shall provide
8 administrative and clerical support for the Working Group for the preparation of the plans required
9 under subsections (a) and (b) of Section 5.16-4.

10 (c) Subject to the fiscal, budgetary, and civil service provisions of the Charter, subject to the
11 approval of the Local Agency Formation Commission, and consistent with the Local Agency Formation
12 Commission's special studies authority under state law, the Local Agency Formation Commission may
13 hire and make available to the Working Group an outside consultant or consultants with expertise in
14 drafting business plans for the establishment of California banks, community engagement, or the
15 establishment of public governance models to draft the plans required under subsections (a) and (b) of
16 Section 5.16-4. All policy decisions and recommendations for such plans shall be under the direction
17 and for the approval of the Working Group. The Local Agency Formation Commission shall provide
18 support and facilitation in accordance with state law.

19 (d) The Working Group may request information from other technical advisors as needed, such
20 as experts in municipal ownership and financing, student lending, affordable housing, sustainable
21 agriculture loans, renewable energy, or public infrastructure.

22 (e) Members appointed to Seats 1-7 shall serve at the pleasure of the Board of Supervisors and
23 may be removed by the Board at any time. Each member in Seats 1-7 may remain on the Working
24 Group until its termination under Section 5.16-7, unless removed by the Board. Any vacancy in Seats 1-
25 7 shall be filled by the Board.

1 (f) Designees in Seats 8 and 9 are members of the Controller’s Office and Treasurer’s Office
2 respectively and serve in lieu of the Controller and Treasurer respectively. The Controller, as to Seat
3 8, and the Treasurer, as to Seat 9, may change the designee at any time or serve in the seat at any time.

4 (g) Members appointed to Seats 1-7 shall serve without compensation from the City. Members
5 -serving in Seats 8 and 9 shall receive their regular salaries for time spent on the Working Group
6 because they are serving in an official capacity as representatives of their departments.

7 (h) The Working Group shall elect a Chairperson, Vice Chairperson, and other such officers as
8 it deems appropriate from its members and may establish bylaws and rules for its organization and
9 procedures.

10 (i) All recommendations of the Working Group shall be made pursuant to a vote or votes of the
11 majority of the Working Group.

12 (j) Any member, including the Chairperson or the Vice Chairperson, who misses three regular
13 meetings of the Working Group within a six-month period without the written approval of the
14 Chairperson, or the Vice Chairperson in case of the Chairperson’s absence, at or before each missed
15 meeting shall be deemed to have resigned from the Working Group 10 days after the third unapproved
16 absence. The Working Group shall inform the Clerk of the Board of Supervisors of any such
17 resignation as to Seats 1-7, and the Controller or Treasurer respectively as to Seat 8 or 9, in the case of
18 a designee to Seat 8 or 9.

19 **SEC. 5.16-7. SUNSET DATE.**

20 This Article XVI shall expire by operation of law, and the Working Group shall terminate,
21 eighteen months from the Article’s effective date. Upon expiration of this Article, the City Attorney
22 shall cause it to be removed from the Administrative Code.

23
24 Section 2. Effective Date. This ordinance shall become effective 30 days after
25 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

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4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

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7 By: /s/ _____
LISA POWELL
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - San Francisco Reinvestment Working Group]

Ordinance amending the Administrative Code to establish the San Francisco Reinvestment Working Group to submit business and governance plans for a non-depository Municipal Financial Corporation and for a Public Bank to the Board of Supervisors and to the Local Agency Formation Commission.

Existing Law

California Assembly Bill 857, the Public Banking Act, effective January 1, 2020, authorizes local agencies to form State-licensed public banks.

Amendments to Current Law

This ordinance creates the San Francisco Reinvestment Working Group, which, within one year of its first meeting, must submit to the Board of Supervisors (Board) and the Local Agency Formation Commission (LAFCO), a business and governance plan to establish a non-depository lending corporation wholly-owned by the City, designated as the “Municipal Finance Corporation” or MFC.

Also within one year its first meeting, the Working Group must submit to the Board and LAFCO a separate business and governance plan for the MFC to become a state-licensed public bank. Among other requirements, this plan must include the business plan elements required for a State public bank license; a study required to apply for a State public bank license; and lending priorities. The plan must recommend a governance and regulatory structure for the Public Bank; modifications to City laws and regulations; and whether the City should partner with another local agency in the establishment and operation of a public bank.

The ordinance (and hence the Working Group) sunsets 18 months from its effective date.

Background Information

In 2017, in response to Resolution No. 152-17, Treasurer Jose Cisneros formed a Municipal Bank Feasibility Working Group, which produced a report in March 2019 that analyzed three potential models for public banking: 1) a lending entity focused on investments in affordable housing and small business lending; 2) a bank that performs the City’s cash management and other banking needs; and 3) a bank that combines these functions. The Working Group created by this ordinance will build on the work of the earlier task force.

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor: